


NO. 5:10-CV-111-FL

of an anticipated statute of limitations defense as to the claim of the named plaintiff. The parties inform the court that they found no precedent from the Fourth Circuit that was directly on point, but that consistent precedent in other circuits as well as other courts within this circuit suggested that this action would not be able to proceed as a class action.

After concluding that a class was unlikely to be certified and that some uncertainty surrounded the timeliness of named plaintiff's claims, the parties discussed the possibility of an amended complaint that would contain only individual claims arising under a different federal statute, albeit based on the same underlying facts as named plaintiff's original claim. However, the parties could find no authoritative precedent as to whether this other statute supported a private right of action. Thus, based on the uncertainty facing both sides going forward, they ultimately agreed to a settlement of all of plaintiff's individual claims.

The settlement does not prejudice the rights of any putative class member, and the parties inform the court that they are unaware of any media surrounding this case or of any contact by a putative class member with counsel for any party. Based on the representations of the parties, the court is satisfied that the settlement was entered into at arms length, without collusion, and is a product of an honest assessment of the strength of the claims and the difficulty of bringing them either as a class action or as an individual action. Accordingly, the court will allow this action to be voluntarily dismissed, effective February 23, 2011.

SO ORDERED, this the 31<sup>st</sup> day of March, 2011.

  
LOUISE W. FLANAGAN  
Chief United States District Judge